Oliver & Burr (1903), 69 N. J. L. 357. For a discussion of the position of the United States Supreme Court on the fellow servant doctrine, see 3 MICH. LAW REV. 78. See also 2 MICH. LAW REV. 492, 638.

CONSPIRACY—RECOVERY AGAINST ONE ALONE.—Plaintiff's agent and another conspired to defraud her of her property; by their fraudulent representations, she was induced to exchange her valuable farm for certain worthless equities owned by her agent's co-conspirator. In an action against the two wrong-doers, a verdict was found against the owner of the equities alone. *Held,* that the verdict against the single defendant could not be sustained since the conspiracy was the foundation of the right of action. *Evans* v. *Freeman et al.* (1906), — C. C. E. D. Pa. —, 140 Fed Rep. 419.

In a civil action, unlike a criminal prosecution, for conspiracy, it is the damage resulting and not the conspiracy which is the gist of the action. "It is seldom, if ever, however, that a case can occur in which a man may not have redress without counting on the joint wrong; for the injury accomplished by means of the conspiracy may be treated as a distinct wrong in itself, irrespective of the steps that led to it." COOLEY ON TORTS (2nd Ed.) 143. That the proposition as laid down above is not without its limitations is well illustrated by the principal case: It was clearly pointed out by the court that, unless the conspiracy be made out, the agent's knowledge must be imputed to his principal and therefore that actionable fraud would not be shown against either of the defendants, since the plaintiff having knowledge of the facts, did not, in contemplation of law, rely on, nor was she induced to part with her property by the fraudulent representations. So in the case of *Collins* v. *Cronin,* 117 Pa. St. 35, it was necessary, as a condition precedent to the right of recovery, to make out the conspiracy. However, the general rule is as above stated by JUDGE COOLEY. *Laverty* v. *Vanarsdale,* 65 Pa. St. 507; *Hutchins* v. *Hutchins,* 7 Hill. 104.

CONSTITUTIONAL LAW—COUNTY TAXES—STATUTORY LIMITATION—IMPAIRMENT OF CONTRACTS.—A statute empowered the county commissioners to make certain levies at specified rates, and further authorized a levy for the county sinking fund of an amount sufficient to pay one year's interest on bonded indebtedness, and not to exceed fifteen per cent of the principal. A proviso at the end of the fifth provision of the statute read: "Provided, that the total county tax rate shall not exceed in any one year, the sum of eight mills on the dollar, for *all* purposes." The commissioners of the defendant county made a total tax levy of twenty and one-half mills on the dollar, including a nine mill sinking fund levy. Claiming these levies exceeded statutory limitations, the plaintiff paid all its other taxes and nine mills on each dollar of its assessed property as county taxes, and brought this action to restrain the collection of any further sum. *Held,* such statute is unconstitutional, in that it makes it possible for a county to evade the liquidation and payment of interest on its bonded indebtedness, and thereby impair the obligation of its contracts. *Fremont, E. and M. V. Ry. Co.* v. *Pennington County et al.* (1905), — So. Dak. —, 105 N. W. Rep. 929.

It is generally held that laws which withdraw or restrict the taxing power of a county or city, to such an extent as to impair the obligation of its contracts made upon a pledge, expressly or impliedly given, that it shall be exercised for their fulfillment, are void. See *Von Hoffman* v. *City of Quincy* (1866), 4 Wall. 535; and *Padgett* v. *Post* (1901), 106 Fed. Rep. 600-03. The prohibition of the Constitution against the passage of laws impairing the obligation of contracts, applies to the contracts of the state, and to those of its agents under its authority, as well as to contracts between individuals. *Wolff* v. *New Orleans* (1880), 103 U. S. 358-67. Bona fide purchasers of negotiable municipal bonds issued according to law, are protected, even though the officers sold them without authority. *D'Esterre* v. *City of New York et al.* (1900), 104 Fed. Rep. 605. An argument in favor of the decision in the principal case is, whenever the only resource for the payment of the debts of the municipal corporation is the power of taxation existing at the time the debt was contracted, any law which withdraws or limits the taxing power and leaves no adequate means for the payment of such debts, is forbidden by the Constitution and is, therefore, null and void. See *Ralls County Court* v. *United States* (1881), 105 U. S. 733; *Port of Mobile* v. *Watson,* 116 U. S. 289; *Von Hoffman* v. *City of Quincy,* 4 Wall. 535, and *Wolff* v. *New Orleans,* 103 U. S. 358, cited above.

CONSTITUTIONAL LAW—SEARCH AND SEIZURE—DUE PROCESS OF LAW.—A statute provided that on complaint of any person who believes that intoxicating liquor is being sold or given away in violation of law, and on issuance of a warrant, a sheriff or constable is authorized to search the place described, and to seize all the intoxicating liquors found therein. Suit was brought by the plaintiff against the constable and others to recover the value of liquors seized under authority of above act. Defendant pleaded the statute in defense. *Held,* the statute is unconstitutional, as depriving one of property without due process of law, in that it contains no provision for the disposition of property seized, and a warrant issued thereunder to a constable is no defense to an action of trespass for the making of such a search and seizure. *Beavers* v. *Goodwin et al.* (1905),—Tex.—, 90 S. W. Rep. 930.

The act makes no provision for the disposition of liquors seized, nor does it allow the offender a hearing before a judicial tribunal. Otherwise, it might be competent under the police power of the state. It has been quite generally held, that if the property cannot be used except in violation of law, statutes authorizing its destruction are valid. See *Collins* v. *Lean,* 68 Cal. 284, 9 Pac. Rep. 173-175, with reference to lottery tickets; *Board of Police Commissioners* v. *Wagner* (1901), 93 Md. 182, 48 Atl. Rep. 455, 52 L. R. A. 775, allowing the seizure of slot machine. *Frost* v. *People* (1901), 193 Ill. 635, 61 N. E. Rep. 1054, regarding seizure of gambling apparatus. Such statutes are upheld on the theory that a thing which can be used only in violation of law, is not property in the sense that it is entitled to the protection of the law. But here, the property seized might have been subjected to a perfectly legitimate use and was, therefore, entitled to protection. Hence, its owner could not be deprived of it without due process of law, and its disposition should not be left to a ministerial officer. See COOLEY'S